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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,440	01/31/2006	Sven Hermann	1454.1670	5071
21171 7590 09/18/2008 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER HEIDER, SHANTELL LAKETA	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 09/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/566,440

**Applicant(s)**

HERMANN ET AL.

**Examiner**

SHANTELL HEIBER

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1-31-06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date 1-31-06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 11, 13 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Itoh et al (Itoh), US Publication No. 2002/0194361.
3. **Regarding Claims 10 and 17**, Itoh discloses a method for delivering messages in a communications network, comprising: monitoring an arrival rate of messages destined for a geographical area within a short time period; establishing, upon reaching a threshold, a multicast group for routing the messages to the geographical area by joining to the multicast group network devices responsible for delivering the messages; delivering, upon establishment of the multicast group, the messages to the geographical area **(Multicast groups are formed and determined based on statistical information, such as, the transmission rate. Grouping is determined based on the difference in transmission rates Q compared to a certain threshold value C. [0149]-[0154])**.
4. **Regarding Claim 11**, Itoh discloses further comprising delivering any further messages destined for the geographical area arriving after the establishment of the multicast group via the multicast group. **[0152]**

5. **Regarding Claim 13**, Itoh discloses wherein each of the messages destined for the geographical area is defined by a geographical destination address. **[0158]**
6. **Regarding Claim 16**, Itoh discloses wherein said delivering uses fast internet protocol forwarding to forward the messages in the multicast group. **[0152]**
7. **Regarding Claim 18**, Itoh discloses wherein each network device is a router or a gateway. **[01115]**

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of Ekl et al. (Ekl), US Publication No. 2003/0083087.
10. **Regarding Claim 12**, Itoh discloses the method as described above.
11. Itoh fails to disclose further comprising removing the multicast group after a predefined time period has elapsed within which no further messages destined for the geographical area arrive.
12. In a similar field of endeavor, Ekl discloses systems and methods for implementing calls using pre-established multicast groups in a multicast IP network. Ekl further discloses further comprising removing the multicast group after a predefined time

period has elapsed within which no further messages destined for the geographical area arrive. **[0035]**

13. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to control the amount of sent data to eliminate congestion across the network (Itoh) for further efficient use of communication resources (Ekl).

14. **Regarding Claim 14**, Itoh discloses the method as described above.

15. Itoh fails to disclose wherein the geographical destination address of each of the messages destined for the geographical area is identical or substantially similar.

16. Ekl discloses wherein the geographical destination address of each of the messages destined for the geographical area is identical or substantially similar. **[0013]**  
**and [0016]**

17. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to control the amount of sent data to eliminate congestion across the network (Itoh) for further efficient use of communication resources (Ekl).

18. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itoh in view of Asbun, US Publication No. 2007/0140241.

19. **Regarding Claim 15**, Itoh discloses the method wherein said monitoring of the rate of arrival is performed as described above.

20. Itoh fails to disclose performing using a soft state message counter.

21. In a similar field of endeavor, Asbun discloses fast processing of multicast data. Asbun further discloses performing using a soft state message counter. **[0014]** and **[0023]-[0025]**

22. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to control the amount of sent data to eliminate congestion across the network (Itoh) for further reducing processing time of multicast packets (Asbun) yielding predictable results.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTELL HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./  
Examiner, Art Unit 2617  
September 13, 2008

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617